



February 25, 2005

HOUSE BILL No. 1695

DIGEST OF HB 1695 (Updated February 24, 2005 12:05 pm - DI 92)

Citations Affected: IC 6-9.

Synopsis: Retail development. Allows the Marion County city-county council to designate a special retail district if the district: (1) does not exceed 400 acres; (2) is established for the purpose of undertaking a project that involves a total capital commitment in excess of \$125,000,000; (3) the total capital investment for the project will be in excess of \$500,000,000; and (4) the project would not otherwise be accomplished through the ordinary operations of private investment. Provides that if a district is designated, an additional 1% sales tax applies to retail transactions within the district. Specifies that this additional 1% sales tax is imposed, paid, and collected in the same manner as the state sales tax. Requires the amounts received from the additional 1% sales tax to be paid monthly by the treasurer of the state to the county fiscal officer and deposited into a special fund. Allows money in the special fund to be used by the metropolitan development commission for any purpose that property tax increment could be used.

Effective: July 1, 2005.

Behning

January 19, 2005, read first time and referred to Committee on Local Government.
February 17, 2005, amended, reported — Do Pass.
February 21, 2005, referred to Committee on Ways and Means pursuant to House Rule 127.
February 24, 2005, amended, reported — Do Pass.

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HB 1695—LS 7539/DI 44+



February 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1695

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]:

4 **Chapter 35. Special Retail District Incremental Gross Retail**
5 **Tax**

6 **Sec. 1. Except as otherwise provided in this chapter, the**
7 **definitions in IC 6-2.5-1 apply throughout this chapter.**

8 **Sec. 2. As used in this chapter, "fiscal body" has the meaning set**
9 **forth in IC 36-1-2-6.**

10 **Sec. 3. As used in this chapter, "fiscal officer" has the meaning**
11 **set forth in IC 36-1-2-7.**

12 **Sec. 4. As used in this chapter, "gross retail income" has the**
13 **meaning set forth in IC 6-2.5-1-5, except that the term does not**
14 **include taxes imposed under IC 6-2.5 or IC 6-9.**

15 **Sec. 5. (a) Subject to subsections (b) and (c), the fiscal body of a**
16 **county containing a consolidated city may adopt an ordinance**
17 **designating an area in the county as a special retail district.**

HB 1695—LS 7539/DI 44+



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(b) A special retail district designated under subsection (a) must meet the following requirements:

(1) The district may not exceed four hundred (400) acres.

(2) The district must be established for the purpose of undertaking a project, or a series of projects, that involve a total capital commitment in excess of one hundred twenty-five million dollars (\$125,000,000).

(3) The fiscal body must make a finding that:

(A) the total capital investment for the project, or series of projects, will be in excess of five hundred million dollars (\$500,000,000) at the completion of the project, or series of projects; and

(B) the project would not otherwise be accomplished through the ordinary operations of private investment because of the unique quality and scope of the project or series of projects.

(c) The fiscal body may adopt an ordinance under subsection (a) only after January 1 but before April 1 of a year.

(d) If the fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

Sec. 6. (a) If the fiscal body of a county containing a consolidated city adopts an ordinance designating a special retail district under section 5 of this chapter, a one percent (1%) incremental gross retail tax is imposed on the transactions described in section 7 of this chapter that occur within the district.

(b) The incremental gross retail tax imposed by subsection (a):

(1) takes effect July 1 following the adoption of the ordinance under section 5 of this chapter; and

(2) is in addition to any other tax imposed on the transactions described in section 7 of this chapter.

Sec. 7. (a) Except as provided in subsection (b), the incremental gross retail tax imposed by section 6 of this chapter applies to all retail transactions that occur within the special retail district designated under section 5 of this chapter.

(b) The incremental gross retail tax does not apply to a transaction to the extent that the transaction is exempt from the state gross retail tax under IC 6-2.5.

Sec. 8. (a) The incremental gross retail tax imposed by section 6 of this chapter is imposed only on the gross retail income derived from retail transactions.

(b) A person who receives goods or services in a retail

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transaction that is taxed under this chapter is liable for the incremental gross retail tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the goods or services. The retail merchant shall collect the tax as an agent for the state and the county.

(c) Except as otherwise provided in this chapter, the incremental gross retail tax shall be imposed, paid, and collected in the same manner in which the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 9. (a) The amounts received from the incremental gross retail tax shall be paid monthly by the treasurer of the state to the fiscal officer of the county containing a consolidated city upon warrants issued by the auditor of state.

(b) The amounts received by the county fiscal officer under subsection (a) shall be deposited into a special fund.

(c) Money in the special fund may be used by the metropolitan development commission for any purpose for which property taxes allocated to a redevelopment district under IC 36-7-15.1-26 may be expended, including the payment of debt service or lease rentals and the establishment and maintenance of a debt service reserve.

Sec. 10. (a) Subject to subsection (c), the fiscal body of a county containing a consolidated city may after January 1 but before April 1 of a year adopt an ordinance to rescind the designation of a special retail district.

(b) If the fiscal body adopts an ordinance under subsection (a):

(1) the special retail district is abolished July 1 following the adoption of the ordinance; and

(2) the incremental gross retail tax is rescinded effective July 1 following the adoption of the ordinance.

(c) The fiscal body may not adopt an ordinance rescinding the designation of a district if there are bonds outstanding or leases or other obligations payable from the incremental gross retail tax under this chapter.

(d) If the fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1695, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 18, delete "will".

Page 3, line 19, delete "investment" and insert "**commitment**".

Page 3, line 19, after "hundred" insert "**twenty-five**".

Page 3, line 20, delete "(\$100,000,000)." and insert "**(\$125,000,000), and the commission and the board must determine that:**

(1) the total capital investment for the project, or series of projects, will be in excess of five hundred million dollars (\$500,000,000) at the completion of the project, or series of projects; and

(2) the project would not otherwise be accomplished through the ordinary operations of private investment because of the unique quality and scope of the project or series of projects."

and when so amended that said bill do pass.

(Reference is to HB 1695 as introduced.)

HINKLE, Chair

Committee Vote: yeas 10, nays 1.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1695, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:
 "SECTION 1. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 35. Special Retail District Incremental Gross Retail Tax

Sec. 1. Except as otherwise provided in this chapter, the definitions in IC 6-2.5-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "fiscal body" has the meaning set forth in IC 36-1-2-6.

Sec. 3. As used in this chapter, "fiscal officer" has the meaning set forth in IC 36-1-2-7.

Sec. 4. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5, except that the term does not include taxes imposed under IC 6-2.5 or IC 6-9.

Sec. 5. (a) Subject to subsections (b) and (c), the fiscal body of a county containing a consolidated city may adopt an ordinance designating an area in the county as a special retail district.

(b) A special retail district designated under subsection (a) must meet the following requirements:

- (1)** The district may not exceed four hundred (400) acres.
- (2)** The district must be established for the purpose of undertaking a project, or a series of projects, that involve a total capital commitment in excess of one hundred twenty-five million dollars (\$125,000,000).
- (3)** The fiscal body must make a finding that:
 - (A)** the total capital investment for the project, or series of projects, will be in excess of five hundred million dollars (\$500,000,000) at the completion of the project, or series of projects; and
 - (B)** the project would not otherwise be accomplished through the ordinary operations of private investment because of the unique quality and scope of the project or series of projects.

(c) The fiscal body may adopt an ordinance under subsection (a) only after January 1 but before April 1 of a year.

(d) If the fiscal body adopts an ordinance under subsection (a),

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it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

Sec. 6. (a) If the fiscal body of a county containing a consolidated city adopts an ordinance designating a special retail district under section 5 of this chapter, a one percent (1%) incremental gross retail tax is imposed on the transactions described in section 7 of this chapter that occur within the district.

(b) The incremental gross retail tax imposed by subsection (a):

(1) takes effect July 1 following the adoption of the ordinance under section 5 of this chapter; and

(2) is in addition to any other tax imposed on the transactions described in section 7 of this chapter.

Sec. 7. (a) Except as provided in subsection (b), the incremental gross retail tax imposed by section 6 of this chapter applies to all retail transactions that occur within the special retail district designated under section 5 of this chapter.

(b) The incremental gross retail tax does not apply to a transaction to the extent that the transaction is exempt from the state gross retail tax under IC 6-2.5.

Sec. 8. (a) The incremental gross retail tax imposed by section 6 of this chapter is imposed only on the gross retail income derived from retail transactions.

(b) A person who receives goods or services in a retail transaction that is taxed under this chapter is liable for the incremental gross retail tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the goods or services. The retail merchant shall collect the tax as an agent for the state and the county.

(c) Except as otherwise provided in this chapter, the incremental gross retail tax shall be imposed, paid, and collected in the same manner in which the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 9. (a) The amounts received from the incremental gross retail tax shall be paid monthly by the treasurer of the state to the fiscal officer of the county containing a consolidated city upon warrants issued by the auditor of state.

(b) The amounts received by the county fiscal officer under subsection (a) shall be deposited into a special fund.

(c) Money in the special fund may be used by the metropolitan

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development commission for any purpose for which property taxes allocated to a redevelopment district under IC 36-7-15.1-26 may be expended, including the payment of debt service or lease rentals and the establishment and maintenance of a debt service reserve.

Sec. 10. (a) Subject to subsection (c), the fiscal body of a county containing a consolidated city may after January 1 but before April 1 of a year adopt an ordinance to rescind the designation of a special retail district.

(b) If the fiscal body adopts an ordinance under subsection (a):

(1) the special retail district is abolished July 1 following the adoption of the ordinance; and

(2) the incremental gross retail tax is rescinded effective July 1 following the adoption of the ordinance.

(c) The fiscal body may not adopt an ordinance rescinding the designation of a district if there are bonds outstanding or leases or other obligations payable from the incremental gross retail tax under this chapter.

(d) If the fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue."

Delete pages 2 through 6.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1695 as printed February 18, 2005.)

ESPICH, Chair

Committee Vote: yeas 18, nays 4.

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